

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,) 4:07CR3005
)
V.)
)
RICHARD FLEMING,)
)
Defendant.)

**MEMORANDUM
AND ORDER**

This matter is pending before me on the appeal of the Magistrate's Order terminating the appointment of the Federal Public Defender. For prudential reasons,

IT IS ORDERED that the Magistrate's memorandum and order (filing [74](#)) regarding the termination of the appointment of the Federal Public Defender, and regarding the direction to the defendant to obtain substitute counsel, is hereby stayed until further order of the court. The undersigned will resolve the pending appeal upon the submission of the government's brief¹ and any reply.

October 27, 2008.

BY THE COURT:

S/Richard G. Kopf
United States District Judge

¹The government is directed to consider the provisions of Vol. VII, § 2.04 of the *Guide to Judicial Policies and Procedures*, at p. 8 (March 23, 2005), regarding "Standard for Eligibility." In particular, the government should address the following statement: "Any doubts as to a person's eligibility should be resolved in his favor; erroneous determinations of eligibility may be corrected at a later time." *Id.*